

HOUSE BILL 221

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; AMENDING A PROVISION OF
THE PUBLIC EMPLOYEES RETIREMENT RECIPROCITY ACT RELATING TO THE
PAYMENT OBLIGATIONS OF STATE SYSTEMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-13A-4 NMSA 1978 (being Laws 1992,
Chapter 116, Section 16, as amended) is amended to read:

"10-13A-4. NORMAL RETIREMENT--PENSION BENEFIT.--If a
member has one month or more of eligible reciprocal service
credit under each of two or more state systems, the following
provisions shall apply, together with the applicable provisions
of the Public Employees Retirement Reciprocity Act, the
Educational Retirement Act, the Public Employees Retirement
Act, the Judicial Retirement Act, the Magistrate Retirement Act
and the rules and regulations for those acts promulgated by the

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1 board:

2 A. a member's total eligible reciprocal service
3 credit under all state systems shall be used in satisfying the
4 service credit requirements for normal retirement under the
5 state system from which the member retires;

6 B. when a member with eligible reciprocal service
7 credit retires, the member shall receive a pension that is
8 equal to the sum of the pensions attributable to the service
9 credit the member has accrued under each state system, subject
10 to the following restrictions:

11 (1) the salary used in calculating each
12 component of the pension shall be the salary, average annual
13 salary or final average salary, as those terms are defined
14 under the applicable act, earned while the member was covered
15 under the state system calculating that component as follows:

16 (a) the member's entire salary history
17 under the public employees retirement system and the
18 educational retirement system shall be used to determine the
19 final average salary and annual average salary under each state
20 system if the member has eligible reciprocal service credit
21 under both state systems;

22 (b) the member's entire salary history
23 under the educational retirement system and the judicial
24 retirement system or the magistrate retirement system, or both,
25 shall be used to determine the average annual salary under the

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1 Educational Retirement Act if the member has eligible
2 reciprocal service credit under those state systems but has
3 less than five years of service credit under the educational
4 retirement system;

5 (c) the member's salary history under
6 the educational retirement system shall be used to determine
7 the average annual salary under that system if the member has
8 eligible reciprocal service credit under the Educational
9 Retirement Act and the Judicial Retirement Act or the
10 Magistrate Retirement Act, or both, and has five or more years
11 of service credit under the educational retirement system; or

12 (d) if a member has less than twelve
13 months of credited service under the judicial retirement system
14 or the magistrate retirement system, the final year's salary
15 shall be the aggregate amount of salary paid to the member for
16 the period of credited service divided by the member's credited
17 service times twelve;

18 (2) the member shall meet the age and service
19 credit requirements for retirement under each applicable state
20 system before the component of the pension attributable to
21 service credit accrued under that state system may be paid;
22 provided the member's total eligible reciprocal service credit
23 under all state systems shall be used in satisfying the service
24 credit requirement for normal retirement under each state
25 system;

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1 (3) the member shall terminate employment
2 under all state systems before the member may receive a pension
3 from any state system; and

4 (4) the member shall file an application for
5 retirement under the state system under which the member was
6 last employed, in accordance with the requirements of that
7 state system;

8 C. subject to the restrictions contained in this
9 section, the component of the pension attributable to each
10 state system shall be calculated based upon:

11 (1) the member's eligible reciprocal service
12 credit acquired as a member of that state system; and

13 (2) the pension calculation formula applicable
14 to the member under that state system;

15 D. the following limitations shall apply to
16 pensions calculated under the Public Employees Retirement
17 Reciprocity Act:

18 (1) in no case shall the total amount of the
19 pension, calculated under the Public Employees Retirement
20 Reciprocity Act and received by a member attributable to all
21 state systems, exceed the amount allowable under Section 415 of
22 the Internal Revenue Code; and

23 (2) where the member has less than five years
24 of service credit in one state system, the pension from that
25 state system shall not exceed six hundred twenty-five [one]

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1 thousandths percent per month of service under that state
2 system multiplied by the following amount applicable under that
3 state system:

4 (a) one-twelfth of the member's
5 magistrate salary received during the last year in office;

6 (b) one-twelfth of the member's judicial
7 salary received during the last year in office; or

8 (c) the member's final average salary as
9 defined pursuant to the Public Employees Retirement Act;

10 E. ~~[the state system from which a member with~~
11 ~~eligible reciprocal service credit retires shall be the payor~~
12 ~~fund for the pension; provided that:~~

13 ~~(1)~~ each state system shall ~~[reimburse the~~
14 ~~payor fund]~~ pay the amount of the component of the pension
15 attributable to service credit accrued under that state system;
16 [and

17 ~~(2) reimbursements shall be made in the manner~~
18 ~~and frequency determined by the boards]~~

19 F. in no case shall any member retire from more
20 than one state system; and

21 G. if a member retires from any state system with
22 eligible reciprocal service credit and is subsequently employed
23 by any employer covered by a state system, the retired member's
24 eligibility to continue to receive pension payments shall be
25 governed by the retirement act governing the state system from

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1 which the member retired. Subsequent membership in the
2 retirement program under which the subsequent employee is
3 covered shall be governed by that retirement act."

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